



South Carolina Department of Insurance

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MEMORANDUM

TO: All Insurers Licensed to Transact Accident and Health Insurance Business within the State of South Carolina and All South Carolina Licensed Health Maintenance Organizations

FROM: Kendall Buchanan
Deputy Director of Market and Consumer Services

SUBJECT: Guidance on Filing Timeline for 2016 Plans/ Policies Providing Health Insurance Coverage or Exchange-certified Stand-Alone Dental Coverage

DATE: March 19, 2015

I. PURPOSE

The purpose of this memorandum is to set forth filing timelines for issuers wishing to offer non-grandfathered health insurance coverage or coverage of pediatric dental services under Exchange-certified Stand-Alone Dental Plans pursuant to the Patient Protection and Affordable Care Act's (ACA) 2014 Market Reforms with plan or policy years beginning in calendar year 2016. Hereafter, these policies are referred to as 2016-compliant plans or 2016 Plans.

The South Carolina Department of Insurance (Department) conducted a thorough evaluation following the filing review period for 2015-compliant plans and identified a number of areas for improvement. This is the first in a series of guidance the Department plans to publish for issuers regarding 2016 Plans in response to this evaluation. The Department's continued goal is to streamline the filing process, eliminate unnecessary duplication, and encourage competition in the health insurance market for the benefit of South Carolina consumers. As such, the Department plans to issue guidance in future years regarding applicable timelines.

Issuers are strongly encouraged to check the Department's website frequently, particularly the LA&H webpage (<http://doi.sc.gov/431/Life-Accident-Health>), for updates and, further, to sign up for the Department's Bulletin's and Orders distribution list via the Notification Subscription tool (<http://doi.sc.gov/list.aspx>) to ensure timely receipt of subsequent guidance.

II. SCOPE AND APPLICABILITY

For purposes of this guidance, the terms "health insurance issuer," "health insurance coverage," "small group market," and "individual market" shall have the meaning set forth in South Carolina Code of Laws §38-71-670 and §38-71-840. The definition of individual market and small group market are as amended on October 18, 2011 (*see* Bulletin 2011-11).

This guidance applies to health insurance issuers offering 2016-compliant plans in the individual and small group markets with coverage effective dates on or after January 1, 2016 but no later than December 31, 2016. It, further, applies to issuers offering coverage for pediatric dental services that are seeking certification from the federal government as an Exchange-certified Stand-Alone Dental Plan (SADP) with coverage effective dates on or after January 1, 2016 but no later than December 31, 2016 in the individual or small group markets.

This guidance is not applicable to grandfathered health insurance coverage nor is it applicable to non-grandfathered health insurance coverage that does not comply with the 2014 Market Reforms, commonly referred to as “grandmothered” plans, that may be renewed under the transitional policy outlined in Bulletins 2013-12 (November 19, 2013), Addendum A to Bulletin 2013-12 (November 25, 2013), and Bulletin 2014-05 (April 14, 2014). It, further, does not apply to other types of excepted benefit plans that are not Exchange-certified SADPs.

III. FILING TIMELINES FOR 2016 PLANS

While the State of South Carolina has a Federally-facilitated Exchange (FFE) and Federally-facilitated Small Business Health Options Program (FF-SHOP), this Department retains responsibility for the review and approval of forms and rates for the 2016-compliant plans sold on and off the FFE and FF-SHOP. The federal government, through the U.S. Department of Health and Human Services and, in the case of the Multi-State Plan Program, the Office of Personnel Management, is responsible for certifying Qualified Health Plans (QHPs) that will be sold through the FFE and FF-SHOP as well as Exchange-certified SADPs that will be sold on or off the FFE and FF-SHOP. These entities, however, defer to this Department for the review and approval of the forms and rates for such plans.

The federal timeline in the Center for Consumer Information and Insurance Oversight’s (CCIIO) 2016 Letter to Issuers in the Federally-facilitated Marketplace (February 20, 2015) provides a Deadline for Final Submission of QHP Application Data and State Plan Approval of August, 25, 2015. Accordingly, this Department must complete its review of forms and rates for issuers seeking FFE or FF-SHOP certification by August 25, 2015. This deadline has previously served as the basis for the state’s filing submission timeline. As we have in prior years, we have attempted to stagger the submission and review process such that issuers seeking to write QHPs and SADPs would submit filings for review in advance of issuers that are seeking to 2016-compliant plans strictly outside of the FFE and FF-SHOP.

Unlike prior years, the federal government is now seeking to impose a uniform submission timeframe that applies to all health insurance issuers writing single risk pool coverage in the individual and small group markets via regulation. As is outlined in the HHS Notice of Benefit and Payment Parameters for 2016 Final Rule (80 FR 10750), 45 CFR 154.220 is being amended to require health insurance issuers to submit a Rate Filing Justification for all rate increases by the earlier of the date required by the state or the date specified in guidance by the Secretary. While we understand that CMS expects to issue additional guidance surrounding this requirement soon, we are no longer able to wait for that guidance and must proceed based upon our best understanding of these federally-imposed requirements as they are promulgated.

According to the 2016 Letter to Issuers, all health insurance issuers must submit QHP and non-QHP Unified Rate Review rate filing justifications to CMS by May 15th. The deadline for risk pools with QHPs to be disposed of is August 25, 2015, which is the same deadline for the state to complete its review of forms and rates for issuers seeking FFE or FF-SHOP certification. For those issuers that are seeking to write 2016 Compliant plans strictly outside of the FFE and FF-SHOP, the deadline is October 9, 2015. These federally-imposed deadlines are the basis for the filing timeline summarized on the following page.

We are requesting that issuers submit filings for 2016-compliant plans by the following dates:

Health Insurance Issuers Seeking FFE and/or FF-SHOP Certification for QHPs (excluding SADPs)

Submit Rate/ Form Filing in SERFF by:	May 20, 2015
Submit Binder in SERFF Plan Management by:	May 20, 2015
Disposition Deadline:	August 25, 2015

Dental Issuers Seeking FFE and/or FF-SHOP Certification for SADPs (including SADPs that will be offered strictly outside of the FFE and/or FF-SHOP)

Submit Rate/ Form Filing in SERFF by:	June 8, 2015
Submit Binder in SERFF Plan Management by:	June 8, 2015
Disposition Deadline:	August 25, 2015

Health Insurance Issuers Writing 2016-Compliant Plans Solely Outside of the FFE and/or FF-SHOP

Submit Rate/ Form Filing in SERFF by:	July 6, 2015
Submit Binder in SERFF Plan Management by:	July 6, 2015
Disposition Deadline:	October 9, 2015

IV. FILING REQUIREMENTS

As previously indicated, the Department started with the federally-imposed deadlines to determine the length of time that may be necessary to complete the rates and forms filing review process. Our goal is to provide issuers with the maximum amount of time possible in order to develop their filings in an effort to get better quality, more complete submissions at the beginning of the process. This is in keeping with our commitment to improving the review process each year.

With that in mind, we ask that issuers be mindful of the following relative to the upcoming filing period:

- Filings cannot be reviewed until the associated binder is also submitted.
- The Department will only accept one filing per issuer per market segment; this must include all rates and forms for the issuer (even if offering multiple product types). This also applies to issuers that are seeking QHP certification, even if the issuer is planning to offer some plans strictly outside of the FFE/ FF-SHOP (plans for which the company is not seeking QHP certification). Multiple filings will not be permitted as they create unnecessary redundancy and duplication in the process.
- The Department will provide two weeks for issuers to respond to objections until approximately 30 days prior to the federally-imposed disposition deadlines. At that time, the Department will limit response timeframes to one week. Extension will not be granted to any objection response deadline unless there is an extraordinary circumstance that warrants an extension. Analysts will not be able to grant an extension without an internal review of the request. The purpose of this is two-fold: (1) untimely responses impact the timeline and workflow for the review process overall, thus impacting the analysts' ability to be efficient and responsive to other issuers' filings; and (2) we are providing issuers with as much time as we can up-front in order to reduce the need for significant numbers of objections and, in turn, ask that issuers allocate the necessary resources to responding in a timely manner throughout the review process.
- In advance of the filing process, issuers should review all objections and requests from the 2014 filing period (for 2015-compliant plans) and are encouraged to also review the objections and requests from the 2013 filing period (for 2014-compliant plans). The Department has found that issues that were raised in prior filings are very likely to be raised in future filings and, as such, it would greatly streamline to process for issuers to address these at the time of submission. In addition to requesting this review of issuers, the Department has conducted a review of the objections that our analysts asked commonly across issuers and plans to prepare filing guidance so that issuers may benefit from this review in advance of their submissions.

V. IMPORTANT REMINDER: IMPLICATIONS OF FAILURE TO MEET FEDERAL DISPOSITION DEADLINES

Issuers should be reminded that the federal government only permits a limitation of the guarantee availability requirements for those issuers that participate in the full annual open enrollment periods as established by HHS.

It should be stressed that the Department may not have sufficient time to complete the review process in advance of the federal deadlines for those issuers that ignore the filing and objection response timeframes in this memorandum. If an issuer does not submit a complete filing and binder by the indicated dates and the Department is unable to complete the review process in advance of these deadlines, issuers will be required to comply with the ACA's guarantee issue requirements for all applicants in the impacted market segment throughout the entire 2016 calendar year.

VI. QUESTIONS

Issuers should regularly check the LA&H webpage (<http://doi.sc.gov/431/Life-Accident-Health>) over the coming months for additional materials relative to the filing and review process.

Questions regarding this notice, the filing process, or any related filing materials should be submitted via email to lahmail@doi.sc.gov and include the company name and primary point of contact (with phone number and email address) for follow up.